

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA,

v.

SHAUN TUCKER and

JOANNE TUCKER,

Defendants.

Criminal No. JFM-14-0427

**DEFENDANT SHAUN TUCKER'S NOTICE
REGARDING CONDITIONS OF RELEASE**

On October 1, 2014 Defendant Shaun Tucker was arraigned on four counts of embezzlement from an employee benefit plan, in violation of 18 U.S.C. § 664, and one count of tax evasion, in violation of 26 U.S.C. § 7201. As a condition of his release pending trial, the Court ordered Mr. Tucker to “[r]efrain from any direct role in the administration of an employee benefit plan.” *See* Conditions of Release at (8)(v). Out of an abundance of caution, undersigned counsel for Mr. Tucker respectfully informs the Court that it has advised Mr. Tucker to transfer his current administrative responsibilities relating to the Quantell Health and Welfare Plan to a qualified independent fiduciary.

The Quantell Inc. Health and Welfare Plan (the “Plan”) is an employee benefit plan, as defined under the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), 29 U.S.C. 1001, *et seq.* The Plan’s sponsor is Quantell, Inc., and the Plan is administered by Quantell’s Benefits Committee, which currently has one member, Mr. Tucker. Since March 2014, the Plan’s day-to-day operations have been administered by an independent third-party administrator, Carday Associates, Inc.

Consistent with this Court's conditions of release and under the advice of counsel, Mr. Tucker intends to delegate all responsibilities regarding employee benefit plan matters to a qualified independent fiduciary (*e.g.*, an appointed bank trustee). To effectuate such a transfer in accordance with ERISA, as Plan administrator Mr. Tucker is required to conduct a prudent review of potential replacements before selecting an appropriate fiduciary. 29 U.S.C. § 1004. Such a review, as well as the delegation of Mr. Tucker's responsibilities to an independent third-party, could be construed as a violation of Mr. Tucker's conditions of release. Conversely, if Mr. Tucker is not able to transfer these Plan-related responsibilities in a prudent manner, the Plan's participants will suffer because the Plan's ability to operate and pay benefits will soon be impossible.

Therefore, out of an abundance of caution, undersigned counsel hereby notifies the Court that to comply with his Conditions of Release, Mr. Tucker intends to take prudent steps to transfer the Plan-related responsibilities currently held by the Quantell Benefits Committee to a qualified independent fiduciary with no affiliation to Mr. Tucker or Quantell. To do so will permit Mr. Tucker to come into complete compliance with his Conditions of Release and allow the Plan's participants to continue to receive benefits.

If the Court objects to these steps, Mr. Tucker respectfully requests clarification or such other guidance on how to effectuate the Court's Order.

Date: October 14, 2014

Respectfully submitted,

/s/ David Schertler

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